

Exhibit 1 to Voca's Request for Ruling

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2009-238-S

IN RE:

JACABB Utilities, LLC Request for the  
Approval of Amendment Number One  
to Agreements between The Cliffs at  
Mountain Park, LLC and JACABB  
Utilities, LLC and Village Overlook  
Condominium Association and  
JACABB Utilities, LLC

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**PETITION TO INTERVENE, OBJECTION  
TO FILING, AND REQUEST FOR STAY**

Village Overlook Condominium Association (“VOCA”) hereby petitions the South Carolina Public Service Commission (“Commission”) pursuant to Rule 103-825 of its Rules of Practice and Procedure, to be allowed to intervene as formal parties of record in the August 18, 2014 fling by JACABB Utilities in this Docket (JACABB’s “Request for Approval”), objects to the relief JACABB has requested, and requests the Commission stay any proceeding on JACABB’s request pending the Commission’s decision on VOCA’s Complaint for Relief Against Improper Charges and Request for Declaratory Ruling (the “VOCA Complaint”) filed simultaneously with this Petition in a Docket to be assigned by the Commission. In support of this Petition, Petitioner would show as follows:

1. On August 18, 2014 JACABB Utilities, LLC (“JACABB”) filed the Request for Approval requesting approval of an April 13, 2011 Amendment Number One to Agreements between The Cliffs at Mountain Park, LLC and JACABB Utilities, LLC and Village Overlook Condominium Association and JACABB Utilities, LLC (the “2011 Amendment”). Jacabb filed

## Exhibit 1 to Voca's Request for Ruling

the Application pursuant to S.C. Regs.103-541.

2. VOCA is a property owner's association whose members are the owners of the twenty (20) Village Overlook Condominiums. VOCA's members receive residential sewer service from JACABB and are JACABB's residential sewer customers.

3. The South Carolina Public Service Commission ("Commission") issued a Notice of Filing in this matter on September 4, 2014, in Docket No. 2009-238-S and noted that a public hearing may be scheduled. That Notice of Filing set a deadline for intervention in this docket of October 6, 2014.

4. Simultaneously with its filing of this Petition to Intervene, VOCA is filing with the Commission its Complaint for Relief Against Improper Charges and Request for Declaratory Ruling (the "VOCA Complaint"). The VOCA Complaint raises issues related to JACABB's sewer availability fee billings that are, in turn, directly related to the 2011 Amendment and JACABB's Request for Approval.

5. VOCA has a vital interest in this proceeding. The 2011 Amendment names VOCA as a party to the 2011 Amendment, VOCA's members are JACABB's residential sewer customers, and JACABB's requested approval of the 2011 Amendment directly affects and is affected by the issues raised in the VOCA Complaint.

6. Substantively, VOCA objects to JACABB's 2011 Amendment and requests the Commission disapprove it because, among other things, the 2011 Amendment purports to amend an April 24, 2009 agreement between JACABB and VOCA that JACABB has never requested the Commission approve and the Commission has never approved. Moreover, JACABB's Petition incorrectly and materially represents that the Commission approved the April 24, 2009

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agreement between JACABB and VOCA in Order No. 2009-518 (Order attached as Exhibit 1).

That Order does not mention the April 24, 2009 agreement and, instead, solely addresses and approves a March 3, 2009 Agreement between JACABB and The Cliffs at Mountain Park, LLC, a contract to which VOCA was not a party. Finally, VOCA is informed and believes that neither the April 24, 2009 Agreement nor the 2011 Amendment were signed by a person with authority to bind VOCA nor were either Agreement duly authorized by VOCA through appropriate VOCA action.

6. Petitioner seeks to participate in this proceeding in order to more fully establish and assert their position and in order to assist in addressing the important issues raised. Petitioner should therefore be permitted to intervene in this proceeding in order to participate fully and present testimony and other evidence as appropriate.

7. Petitioner's authorized representative in this proceeding is:

John F. Beach  
Adams and Reese LLP  
1501 Main Street, 5<sup>th</sup> Floor  
Columbia, SC 29201  
(803) 343-1269, phone  
(803) 799-8479, fax

8. Petitioner requests that it be allowed to intervene in the above-captioned matter, that it be permitted to participate fully as a party of record, to present testimony, cross-examine witnesses, and assert whatever position it deems to be appropriate.

**WHEREFORE**, Petitioner prays for the following relief:

- a. That the Commission accept this Petition to Intervene and make Petitioner an intervenor and party of record;
- b. That the Commission stay this proceeding pending the outcome of

## Exhibit 1 to Voca's Request for Ruling

### VOCA's Complaint

- b. That, when and if the Commission moves forward with this proceeding, the Commission allow Petitioner to participate fully in this proceeding and take such positions as they deem advisable;
- c. That, when and if the Commission moves forward with this proceeding, the Commission and deny JACABB's Application; and
- c. For such other and further relief as is just and proper.

Respectfully submitted,

**ADAMS AND REESE LLP**

BY: s/ John F. Beach  
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1501 Main Street, 5<sup>th</sup> Floor  
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[John.beach@arlaw.com](mailto:John.beach@arlaw.com)  
Attorneys for Village Overlook  
Condominium Association

September 27, 2014  
Columbia, South Carolina

**BEFORE**

**THE PUBLIC SERVICE COMMISSION OF**

**SOUTH CAROLINA**

**DOCKET NO. 2009-238-S**

IN RE:

JACABB Utilities, LLC Request for the	)	
Approval of Amendment Number One to	)	
Agreements between The Cliffs at Mountain	)	<b>CERTIFICATE OF SERVICE</b>
Park, LLC and JACABB Utilities, LLC and	)	
Village Overlook Condominium Association	)	
and JACABB Utilities, LLC	)	

This is to certify that I have caused to be served this day, one (1) copy of the *Petition to Intervene, Exhibit 1 and this Certificate of Service* by placing a copy of same in the care and custody of the United States Postal Service (unless otherwise specified), with proper first-class postage affixed hereto and addressed as follows:

**VIA ELECTRONIC MAIL SERVICE AND 1<sup>ST</sup> CLASS MAIL SERVICE**

James S. Eakes  
Allen and Eakes  
PO Box 1405  
Anderson SC 29622

**VIA ELECTRONIC MAIL SERVICE AND FIRST CLASS MAIL SERVICE**

Shannon Bowyer Hudson  
Office of Regulatory Staff  
Legal Department  
1401 Main Street, Suite 900  
Columbia SC 29201

s/ Linda B. Brewer  
Linda B. Brewer/Paralegal

September 29, 2014  
Columbia, South Carolina

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2009-238-S - ORDER NO. 2009-518

AUGUST 5, 2009

IN RE: Application of Jacabb Utilities, LLC for	)	ORDER APPROVING
Approval of a Contract with The Cliffs at	)	CONTRACT
Mountain Park, LLC to Service The Cliffs at	)	
Mountain Park Development	)	

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Application of Jacabb Utilities, LLC ("Jacabb") for approval of a contract with The Cliffs at Mountain Park, LLC ("The Cliffs" or "Developer") to serve the Development by the same name ("the Development"). Jacabb and The Cliffs have entered into an agreement, dated March 3, 2009, whereby Jacabb will provide sewer service to the Development. This Commission's authority to approve such contracts is found in 26 S.C. Code Ann. Regs. 103-541 (Supp. 2008), which states in part that no utility shall execute or enter into any agreement or contract with any corporation that would impact, pertain to, or effect said utility's fitness, willingness, or ability to provide sewerage service, including but not limited to collection or treatment of said wastewater, without first submitting said contract in form to the Commission and the ORS and obtaining approval of the Commission.

Jacabb proposes to serve the Development, which will consist of approximately three hundred and eight (308) residential units, residential inn, offices, clubhouse, and



Exhibit 1 to Voca's Request for Ruling

DOCKET NO. 2009-238-S – ORDER NO. 2009-518

AUGUST 5, 2009

PAGE 2

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other facilities and possibly other commercially or residentially developed land contiguous to the Site. The Agreement provides, *inter alia*, that The Cliffs will construct all the necessary sewer facilities required to serve the Development, acquire all necessary easements and rights of way, and convey the facilities and easements to Jacabb.

Pursuant to the Agreement, Jacabb has agreed to reserve adequate utility capacity for up to twenty-seven thousand (27,000) gallons per day (“gpd”) for Phase I of the Development and one hundred and twenty thousand (120,000) gpd for Phase II of wastewater flow from connections located within the property or contiguous properties to the Site. Further, the terms of this contract allow the Developer to expand the Facilities for additional units and Jacabb has agreed to allow the additional units to connect and discharge into the Facilities. The Applicant submits that approval of the contract is in the public interest and will serve the public convenience and necessity.

The Office of Regulatory Staff (ORS) advises that it has reviewed the Application and does not oppose its approval.

We find that public convenience and necessity will be served by approval of the contract between Jacabb Utilities, LLC and The Cliffs at Mountain Park, LLC. We therefore approve the application and the contract as filed.

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DOCKET NO. 2009-238-S – ORDER NO. 2009-518

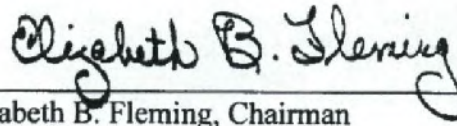
AUGUST 5, 2009

PAGE 3

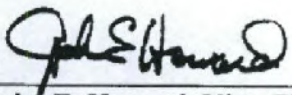
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This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

  
Elizabeth B. Fleming, Chairman

ATTEST:

  
John E. Howard, Vice Chairman

(SEAL)